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II. BOOK REVIEWS.

WHARTON AND STILLÉ'S MEDICAL JURISPRUDENCE. Volume I. Mental Unsoundness. Legal Questions by Frank H. Bowlby. Insanity: Forms and Medico-Legal Relations, by James Hendrie Lloyd. Volume II. Poisons. By Robert Amory and Robert L. Emerson. Volume III. Physical Conditions and Treatment. Medical Aspects by Truman Abbe; Legal Aspects by Frank H. Bowlby. Rochester, N. Y.: The Lawyers' Co-operative Publishing Company. 1905. pp. clv, 1031; xxx, 858; lxxix, 692. 8vo.

Published originally in 1855, Wharton and Stillé's work on Medical Jurisprudence has since that time been considered standard. Witthaus and Becker on Medical Jurisprudence, Forensic Medicine, and Toxicology, published in 1894, in four volumes, is the only other exhaustive American work in this field. The two books differ, however, in form. Witthaus and Becker' is rather in the nature of an encyclopedia than of a treatise, the several chapters and sections being written by different distinguished practitioners in law and in medicine in collaboration with the editors. The first edition of Wharton and Stillé, consisting of one volume of eight hundred pages, was divided into six books: Book I. Mental Unsoundness; Book II. Questions relative to the Foetus and the Unborn Child; Book III. Questions arising out of the Difference of Sex; Book IV. Questions relative to Identity; Book V. Questions relating to the Cause of Death, Part I. Poisoning, Part II. Other Forms of Violent Death; Book VI. Legal Relations of Homicide, Foeticide, and Infanticide. No important change was made in the arrangement or text of the treatise until the third edition, which was issued in 1873 in three volumes. The first volume then was given over entirely to Mental Unsoundness, a subject which had been covered in one of the six books of the first edition. Since that time the treatise has appeared in three volumes. Between the third edition and the present fifth edition, one other noteworthy change occurred. So much new material had been accumulated, and so much greater medical knowledge of poisons acquired by the editors, that in the fourth edition it was found necessary to devote the second volume entirely to the subject of Poisons. This was largely the work of the late Professor Edward S. Wood of the Harvard Medical School, the well-known expert, and is on that account of exceptional value.

The division into volumes in the present edition is similar to that in the preceding; but so many changes have been made in the separate volumes that the whole is almost a new work. Volume I. on Mental Unsoundness has been increased very greatly in size, comprising now about 1000 pages, and thus in itself being larger than the first edition of the entire treatise. The chapters I.-XX. on the jurisprudence of insanity are for the most part new work, the text having been rewritten with many new citations by Mr. F. H. Bowlby of the publishers' editorial staff. Under the heading, "Mental Unsoundness in its Legal Relations," Mr. Bowlby states the law as represented by the decisions of the courts, and considers the effect of lunacy, intoxication, morphinism, and other addictions in questions of contracts, marriage, divorce, wills, gifts, life insurance, torts, offices of trust, settlement and domicile. Further attention is given to insanity and intoxication as defenses to crime; and the rules of evidence on these several subjects are set forth at length.

The remaining chapters of the volume, XX.-LIX., on Forms and Medico-Legal Relations of Insanity, are new work by Dr. James Hendrie Lloyd. These chapters are written from the viewpoint of the scientific expert. After a discussion of general definitions of insanity, and of general principles of law in relation thereto, all the various possible forms of mental unsoundness are treated in turn, defined, explained, and illustrated by actual cases. In this volume citation is made to approximately 4500 cases.

The second volume, on Poisons, is edited by Dr. Robert L. Emerson and by Dr. Robert Amory, who was associated with the late Professor Wood in the preparation of the fourth edition. The same general plan has been followed in this edition, but certain methods for the detection of poisons, now deemed

obsolete, are omitted; and there have been added some new chapters on ptomain poisoning, and on the detection of blood stains, as well as some special work on Wood Alcohol by Dr. F. M. Spalding. The classification of poisons in this edition is made according to their chemical and physical relations rather than by the similarity of symptoms following their use. An appendix contains full statements of some of the more important cases of poisoning which have come before the courts, illustrating either the symptoms produced by the use of the several poisons or the methods employed in the detection of poisoning. The law of Massachusetts on Medical Examiners, the law of Connecticut on Coroners, and the United States Report on Boric Acid, are also included in the appendix.

In the third volume, entitled "Physical Conditions and Treatment," the legal aspects of the subject have been treated by Mr. Bowlby; the medical, by Dr. Truman Abbe. Nothing of the fourth edition has been omitted, but the material has been considerably rearranged. The distinctly new work consists of some chapters on the effects of electricity; and chapters on the rights, duties, liabilities and legal limitations of physicians and surgeons in their personal relations, as well as in all situations arising from their acts.

There are ample footnotes to the important statements in the several volumes giving citations to the works of men in this country and abroad who have devoted special attention to this particular branch of legal study. At the end of each one of the three volumes is a complete analytic index, making it possible to use each volume independently. Generally speaking, treatises on medical jurisprudence lay so much stress on points arising in criminal practice that the very interesting questions which become of importance in civil cases are unduly slighted. In Wharton and Stillé this tendency, originally less apparent than in other books, grows less with succeeding editions. The growth of that portion of the work dealing with mental unsoundness is an illustration. For this reason the work should appeal to a larger class of readers; and despite the fact that Continental writers have made far more extensive researches in the field which it covers than English and American jurists, it is entitled to rank well among the general treatises of the present day.

S. H. E. F.

A TREATISE ON THE CONFLICT OF LAWS, OR PRIVATE INTERNATIONAL LAW.

By Francis Wharton. Third edition, by George H. Parmele. In two volumes. Rochester, N. Y.: The Lawyers' Co-operative Publishing Co. 1905. pp. ccxiv, 1-848; xxvii, 849-1830. 8vo.

The present edition of Wharton's *Conflict of Laws*, although a great improvement upon its two predecessors in its handling of the various topics considered, is, nevertheless, handicapped by Mr. Wharton's illogical and unscientific treatment of the subject. A most careful examination of the author's division of the questions involved in the *Conflict of Laws* fails to disclose anything remotely resembling a plan which he has followed. All topics, especially the law governing contracts, are in a state of confusion, the inevitable result of jumbling together the creation, recognition, and enforcement of rights.

The subject of jurisdiction, for one, as faulty in the present edition as in the past, is neither thoroughly grasped nor adequately treated. The editor supports the general trend of decisions in holding that the law to govern the creation of contracts is the law which the parties intend. He further urges that, in the absence of any expressed intention to the contrary, the law of the place of performance should govern, since that state is the one most interested in the contract. This position is due largely to the failure to distinguish clearly between the creation and the enforcement of the contractual obligation, and also to a misapprehension of the common law notion of the essential nature of law. For, according to the common law, law can have no extra-territorial effect. Since a contract is an agreement to which the law attaches an obligation, a state can attach an obligation only to acts committed within its borders. To